REMARKS/ARGUMENTS

As stated above, Applicants elect with traverse Group II, claims 36-58, drawn to a procedure for the production of a wound dressing, for further prosecution. Also as stated above, Applicants further elect with traverse gelatine type A of claim 38 for further prosecution, lactic acid of claim 42 for further prosecution, taurine of claim 47 for further prosecution, and chlorhexidine of claim 55 for further prosecution. Applicants respectfully traverse the requirements for restriction for the following reasons.

As an initial matter, it is respectfully submitted that the Examiner's position that *Goldenberg et al. U.S. Patent No. 2001/0007673* discloses the special technical feature of the Group I-III claims is unfounded.

The Examiner has pointed out that the reference *Goldenberg et al.* is directed to a sustained release gel comprising a structural protein, a polysaccharide, a carboxylic acid, a polyamino acid, and a cross-linking agent, in view of the Abstract and paragraphs [0003], [0007], and [0026] of *Goldenberg et al.* The Examiner took the position that a mixture representing the present special technical feature of the claims of Group I is not novel and that the Group I claims do not share

a special technical feature with the Group II and the Group III claims.

It is respectfully submitted that the Examiner's position is incorrect for the following reasons:

Although *Goldenberg et al.* discloses a sustained-release gel that is used itself, the wound dressing of Applicants' Group I claims is a solid (sponge) material and is not a gel. See Applicants' specification at page 12, lines 27-28 and page 8, lines 23-25. The gel of *Goldenberg et al.* is not solid, but liquid. See paragraphs [0016] and [0043] of *Goldenberg et al.*, where it is pointed out that the gels are thixotropic.

Furthermore, the gels of Goldenberg comprise only one hyrophilic polymer (see claim 1 of *Goldenberg et al.*), and the examples of *Goldenberg et al.* do not disclose using mixtures of hydrophilic polymers. Cited paragraph [0026] of *Goldenberg et al.* mentions such polymers, but it does not expressly state "mixtures thereof". Thus, according to claim 1 of *Goldenberg et al.*, the *Goldenberg et al.* gels comprise one hydrophilic polymer, an active agent, and a polyvalent metallic ion. See claim 1 of *Goldenberg et al.* and the examples of *Goldenberg et al.* Even if one did assume that the salt of the metallic ion were a

polycarboxylic acid, then the composition having only these elements fails to comprise an amino acid.

The gel composition of *Goldenberg et al.* is used as a liquid for gelling upon application e.g. in a syringe via the intramuscular, iv, ip, and the like pathway (see paragraph [0043] of *Goldenberg et al.*) or via oral application (see paragraph [0041] of *Goldenberg et al.*). In no way can such a gel composition be used as a solid dressing.

In Applicants' view, the Group II process claims reflect the preparation of a wound dressing comprising the special features as defined above of the Group I claims. See the process steps of Applicants' claim 36.

According to *Goldenberg et al.*, the gel is prepared in a different way, namely by combining an active agent and an anionic polymer (alginate) with a polyvalent cation (e.g. Calcium). See paragraph [0062] of *Goldenberg et al.*, whereby the cation initiates the gelation. In this state, the material is filled into syringes.

In contrast, Applicants' dressings as set forth in the claims are cross-linked whereby cross-linking is a separate

process step, which is absent according to *Goldenberg et al.* Thus, the procedure of producing a wound dressing of Applicants' Group II claims differs from the prior art of *Goldenberg et al.*, especially regarding cross-linking.

All of the special features of the product are achieved by the process as claimed in the Group II claims and will also be present in the products prepared that way for being used as indicated in the Group III claims, which in Applicants' view is the common special feature joining all groups I to III.

Accordingly, it is respectfully submitted that the Examiner's election requirement of the Group I, the Group II, or the Group III claims should be withdrawn as the claims of Groups I, II, and III share a common special technical feature.

Moreover with respect to the Examiner's restriction requirement of claim 38 of a single structural protein gelatin identity, it is respectfully submitted that gelatin type A and gelatin type B in principle differ only slightly. Accordingly, it is respectfully submitted that it is reasonable and not burdensome for the Examiner to examine both structural proteins in one application. Accordingly, the Examiner's election of species requirement for claim 38 should be withdrawn for this

additional reason.

Moreover with respect to the Examiner's restriction requirement of claim 55 of a single antibacterial excipient, it is respectfully submitted that chlorhexidine, PolySept, polihexanide, plasticizers, and high-molecular substances in principle differ only slightly. Accordingly, it is respectfully submitted that it is reasonable and not burdensome for the Examiner to examine all antibacterial excipients in one application as well. Accordingly, the Examiner's election of species requirement for claim 55 should likewise be withdrawn for this additional reason.

It is also believed that any search for the invention embodied in Group II and the elected species would necessarily include a search for the inventions embodied in the remaining Groups and Species. Thus, the simultaneous search for all Groups and Species is believed not to constitute an unreasonable search for the Patent Examiner.

In addition, it is believed that the objectives of streamlined examination and compact prosecution would be promoted if a search were conducted simultaneously for all Groups and Species. Also, the necessity of filing multiple patent

applications in this case does not serve to promote the public interest because of the extra expense that is involved, in filing fees and examination costs, as well as the burden upon the public, due to the necessity of searching through a multiplicity of patent files in order to find the complete range of the subject matter claimed in several different patents that could otherwise be found in one issued patent only.

Applicants reserve the right to file divisional applications for the non-elected inventions and the non-elected species.

For all these reasons, it is respectfully requested that the restriction requirement under 35 U.S.C. 121 be withdrawn and that an action on the merits of all the claims be rendered.

Respectfully submitted,
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, 2009.

Melissa Konko

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